

Fred Simpson, Esq.
CAPP, JENKS & SIMPSON, P.C.
1821 S. Avenue W., Suite 400
Missoula, MT 59803
Telephone: (406) 549-2322
Facsimile: (406) 549-2707
Email: fsimpson@cjs.legal

Kevin M. Lougachi, Esq. (*pro hac vice*)
KARBAL, COHEN, ECONOMOU, SILK & DUNNE, LLC
150 South Wacker Drive, Suite 1700
Chicago, Illinois 60606
Telephone: (312) 431-3700
Facsimile: (312) 431-3670
Email: klougachi@karballaw.com

Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

ROCHDALE INSURANCE)	CV 19-68-M-DWM
COMPANY,)	
)	
Plaintiff,)	
)	
vs.)	STATEMENT OF
)	STIPULATED FACTS
)	
SKYLAR DIXON and FELDER &)	
COMPANY, LLC, DBA)	
STILLWATER FISH HOUSE,)	
)	
Defendants.)	

Plaintiff Rochdale Insurance Company (“Rochdale”) submits this statement of stipulated facts pursuant to Local Rule 16.2(b)(3). Rochdale and

Defendants Skylar Dixon (“Dixon”) and Felder & Company, LLC, DBA Stillwater Fish House (“Felder & Co.”), have stipulated to the following facts:

1. Rochdale is an insurance company incorporated under the laws of New York with its principal place of business in New York.

2. Dixon is a Montana citizen with his principal residence in Whitefish, Montana.

3. Felder & Co. is a Montana limited liability company with its principal place of business in Whitefish, Montana. Jesse Scott Felder is the only member of Felder & Co. He is a Texas citizen with his principal residence in Texas.

4. Dixon filed a lawsuit against Felder & Co. in the District Court of Flathead County, Montana, captioned: *Skylar Dixon v. Felder & Company, LLC dba Stillwater Fish House* (the “Underlying Lawsuit”).

5. Dixon is seeking damages in the Underlying Lawsuit in excess of \$75,000.

6. This Court has jurisdiction over this matter under 28 U.S.C. §1332(a)(1) because there is complete diversity of citizenship between Rochdale, on the one hand, and the Defendants, on the other hand, and the amount in controversy exceeds \$75,000, exclusive of interests and costs.

7. Venue is proper under 28 U.S.C. §1391(1) because one or more Defendants resides in the District of Montana, Missoula Division. Venue is also proper under §1391(2) and L.R. 3.2(b) because the events giving rise to this dispute occurred in the District of Montana, Missoula Division.

8. On August 30, 2014 Dixon was an employee of Felder & Co. and worked at its restaurant in Whitefish, Montana, which was called the “Stillwater Fish House.”

9. On August 30, 2014, Dixon began his work shift at the Stillwater Fish House at 4:00 p.m. in the afternoon.

10. On August 31, 2014, Dixon punched a timecard and clocked out from his work shift at or around 12:50 a.m.

11. Noah Gillund (“Gillund”) was another Felder employee who worked at the Stillwater Fish House during the same shift as Dixon on August 30-31, 2014.

12. On August 31, 2014, Gillund punched a timecard and clocked out from his work shift at or around 12:52 a.m.

13. Based upon information and belief, the parties believe the only people left at the restaurant at 12:52 a.m. on August 31, 2014 were Dixon, Gillund, and an assistant manager.

14. Based upon information and belief, the parties believe the assistant manager closed the restaurant for the night around 1:00 a.m. on August 31, 2014.

15. Dixon obtained a ride home from Gillund. On the way home, Gillund lost control of his vehicle and an accident occurred. Dixon was injured in the accident.

16. Thereafter, Dixon submitted a workers' compensation claim to Rochdale. Rochdale denied Dixon's workers' compensation claim.

17. On August 24, 2015, the Montana Department of Labor & Industry – Employment Relations Division (“DL&I”) held a mediation of Dixon's workers compensation claim. The DL&I did not recommend acceptance of the claim.

18. Dixon did not petition the Workers Compensation Court to seek review of the denial of his claim.

19. On June 21, 2019, Dixon filed a First Amended Complaint in the Underlying Lawsuit. [A copy of the First Amended Complaint in the Underlying Lawsuit is attached to Rochdale's First Amended Complaint as Exhibit 2 at Doc. #13-2.]

20. Rochdale issued “Felder & Co., LLC DBA: Stillwater Fish House” Workers Compensation and Employers Liability Policy No. RWC3318979, effective from March 21, 2014 to March 21, 2015 (the “Policy”). [A copy of the

Policy is attached to Rochdale's First Amended Complaint as Exhibit 3 at Doc. #13-3.]

DATED this 29th day of August, 2019.

CAPP, JENKS & SIMPSON, P.C.

By /s/ Fred Simpson
Fred Simpson

KARBAL, COHEN, ECONOMOU, SILK & DUNNE, LLC

By /s/ Kevin M. Lougachi
Kevin M. Lougachi (*pro hac vice*)

*Attorneys for Plaintiff
Rochdale Insurance Company*

CERTIFICATE OF SERVICE

I certify on this 29th day of August, 2019, a copy of the foregoing document was served upon the following persons by the following means:

1-3 CM/ECF
_____ Mail
_____ Hand Delivery
_____ Overnight Delivery Service
_____ Fax
_____ Email

1. Clerk, U.S. District Court
2. Michael A. Bliven, Esq.
BLIVEN LAW FIRM, P.C.
704 S. Main Street
Kalispell, MT 59901
mike@blivenlawfirm.com
Attorney for Defendant Skylar Dixon
3. Dale R. Cockrell, Esq.
MOORE, COCKRELL, GOICOECHEA & JOHNSON, P.C.
145 Commons Loop, Suite 200
P.O. Box 7370
Kalispell, MT 59904-0370
dcockrell@mcgalaw.com
Attorney for Defendant Felder & Company, LLC
d/b/a Stillwater Fish House

CAPP, JENKS & SIMPSON, P.C.

By /s/ Fred Simpson
Attorneys for Plaintiff
Rochdale Insurance Company